

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DAVID BOOKER,

Case No.: 2:23-cv-00734-JAD-BNW

Plaintiff

V.

Defendants

Order Denying Motions and Extending Time to File a Complete IFP Application

[ECF Nos. 14, 17, 18]

The federal magistrate judge in this case has given Plaintiff David Booker two chances to fully complete application to proceed *in forma pauperis* (IFP)¹ but he has yet to do so. Plaintiff has not submitted a copy of his prison trust-fund account statement for the previous six-month period.²

In response to the last extension of time,³ Booker filed two motions for injunctive relief—one that urges me to order prison officials to give Booker his IFP documents or be held criminally liable⁴ and the other that wants me to find a prison official criminally and financially liable.⁵ Booker also filed another motion for preliminary injunction that may be substantively

¹ ECF Nos. 3, 16.

² See ECF No. 8.

3 ECF No. 16.

4 ECF No. 17.

5 ECF No. 18.

1 related to the claims in his complaint⁶; he also filed a motion to substitute a magistrate judge in a
 2 different case.⁷

3 I defer a decision on the motion for injunctive relief that might be substantively related to
 4 the claims in his complaint but deny several of the other motions. First, I deny the motion to
 5 substitute U.S. Magistrate Judge Albregts in *Booker v. High Desert State Prison*, 2:23-cv-00469-
 6 ART-DJA, because I am not a part of that case.⁸ Second, I deny the injunctive-relief motion in
 7 which Booker asks me to find prison officials criminally and financially liable for damages under
 8 criminal and civil law because he is not a prosecutor.⁹ Third, I deny the injunctive-relief motion
 9 in which Booker seeks criminal penalties against prison officials for not sending him his inmate
 10 account statement because, again, he is not a prosecutor.¹⁰ However, I grant Booker one final
 11 extension of time until October 15, 2023, to file his inmate account statement or pay the full
 12 \$402 filing fee.¹¹

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 16⁶ ECF No. 13.

17⁷ ECF No. 14.

18⁸ *Id.*

19⁹ ECF No. 18; *see United States v. Nance*, 962 F.2d 860, 864–65 (9th Cir. 1992), as amended
 20 (May 18, 1992) (holding that the “ultimate decision whether to charge a defendant, and what
 21 charges to file, . . . rests solely with state and federal prosecutors”).

22¹⁰ ECF No. 17; *see Nance*, 962 F.2d at 864–65.

23¹¹ To apply for *in forma pauperis* status, an inmate must submit all three of the following
 24 documents to the court: (1) a completed Application to Proceed *in Forma Pauperis* for Inmate,
 25 which is pages 1–3 of the court’s approved form, that is properly signed by the inmate twice on
 26 page 3; (2) a completed Financial Certificate, which is page 4 of the court’s approved form, that
 27 is properly signed by both the inmate and a prison or jail official; and (3) a copy of the inmate’s
 28 prison or jail trust-fund account statement for the previous six-month period. *See* 28 U.S.C. §
 1915(a)(1)–(2); Nev. Loc. R. Prac. LSR 1-2.

Conclusion

IT IS THEREFORE ORDERED that a decision on the motion for preliminary injunction (ECF No. 13) is deferred.

4 IT IS FURTHER ORDERED that the motion to substitute and motions for additional
5 injunctive relief (ECF Nos. 14, 17, 18) are DENIED.

IT IS FURTHER ORDERED that Booker has until October 15, 2023, to submit a copy of his prison trust-fund account statement for the previous six-month period or pay the full \$402 filing fee. Booker is cautioned that this action will be subject to dismissal without prejudice if he fails to timely comply with this order. A dismissal without prejudice allows Booker to refile the case with the court, under a new case number, when Booker can file a complete IFP or pay the required filing fee.

12 The Clerk of the Court is directed to **SEND** Booker the approved IFP form for an inmate
13 and instructions for the same.

Dated: August 30, 2023



U.S. District Judge